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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Sixty-first session

SUMMARY RECORD OF THE SECOND PART (PUBLIC)* OF THE 1549th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 22 August 2002, at 11.35 a.m.

Chairman: Mr. DIACONU

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* The summary record of the first part (closed) of the meeting appears as document CERD/C/SR.1549

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The public part of the meeting was called to order at 11.35 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Draft concluding observations concerning the fifth periodic report of Estonia (continued) (CERD/C/61/Misc.32)

1. The CHAIRMAN invited the Committee to make drafting proposals, paragraph by paragraph, on the draft concluding observations concerning the fifth periodic report of Estonia.

Paragraphs 1 to 3

2. Paragraphs 1 to 3 were adopted.

Paragraph 4

3. Mr. SICILIANOS proposed that the paragraph should refer solely to "non-governmental organizations" rather than "several non-governmental organizations".

4. Mr. THORNBERRY said that the phrase "preparation of the State party's report" would be an improvement on "drafting of the State party's report".

5. Paragraph 4, as amended, was adopted.

Paragraph 5

6. Mr. PILLAI proposed the formulation "progressive implementation" rather than "developing implementation".

7. Paragraph 5, as amended, was adopted.

Paragraph 6

8. Mr. ABOUL-NASR said that the word "optional" should be inserted before the phrase "declaration under article 14 of the Convention" and that the paragraph should be moved to the final section of the document ("Concerns and recommendations").

9. Paragraph 6, as amended, was adopted.

Paragraphs 7 and 8

10. Paragraphs 7 and 8 were adopted.

11. Mr. ABOUL-NASR said that the existence of an immigration quota as such was contrary to the Convention and should not be referred to as a positive aspect.

12. The CHAIRMAN said he was in favour of retaining the paragraph, because the fact that the immigration quota no longer applied to certain groups was a positive development.

13. Mr. BOSSUYT said that States parties were entitled to restrict immigration flows. Paragraph 188 of the fifth periodic report of Estonia (CERD/C/373/Add.2) highlighted the fact that the Aliens Act had been amended and that the scope of persons exempted from the immigration quota had been extended to include the spouses of Estonian citizens who applied for residence permits if the spouses had a common child under 15 years of age or if the woman was more than 12 weeks' pregnant; that was a positive development that warranted recognition by the Committee.

14. Mr. YUTZIS, supported by Mr. VALENCIA RODRIGUEZ, said that the Estonian immigration quota was discriminatory against certain groups. In its concluding observations following consideration of Estonia's initial to fourth reports (CERD/C/304/Add.98), the Committee had expressed particular concern that the provisions for restricted immigration quotas established by the 1993 Aliens Act applied to citizens of most countries in the world, except those of the European Union, Norway, Iceland and Switzerland, and had recommended that the quota system should be applied without discrimination based on race or ethnic or national origin.

15. Mr. SICILIANOS said that the information contained in paragraph 9 did not reflect the information provided in paragraph 188 of the State party's report. The Committee should verify the facts.

16. The CHAIRPERSON suggested that the Committee should postpone consideration of paragraph 9. Any concerns about the nature of the quota itself should be included in a separate paragraph, under the heading "Concerns and recommendations".

17. It was so agreed.

Paragraph 10

18. Mr. RESHETOV said that the use of the term "county" in the context of Estonia was somewhat unusual. He wondered how the term would be translated.

19. The CHAIRMAN said that the term was the one used by the State party in its fifth periodic report.

20. Paragraph 10 was adopted.

Paragraph 11

21. Mr. RESHETOV said that an amendment was needed to make it clear that the last sentence referred to children who had lived in Estonia for many years and not to immigrant children who had recently arrived in Estonia.

22. The CHAIRMAN said he was in favour of finding a clearer formulation.

23. Mr. BOSSUYT suggested that the words "for a long time" should be added after "Estonia".

24. Mr. ABOUL-NASR said he strongly objected to including the paragraph because it violated article 1, paragraph 3, of the Convention, under which nothing in the Convention could be interpreted as affecting in any way the legal provisions of States parties concerning nationality, citizenship or naturalization, provided that such provisions did not discriminate against any particular nationality. He requested that a vote should be taken on whether or not the paragraph should be retained; he would vote against it.

25. The CHAIRMAN said he did not think it necessary to take a vote. The issue of nationality had been addressed in the concluding observations on the reports of other States parties, taking into account article 5 of the Convention, under which States parties undertook to guarantee equality in the enjoyment of civil rights, including the right to nationality. The different articles of the Convention should not be interpreted as being contradictory to each other, but should serve to promote the same concepts.

26. Mr. BOSSUYT said that, according to article 1, paragraph 3, of the Convention, the fact that a State differentiated between citizens and non-citizens did not constitute, in itself, a violation of the Convention. He agreed that the Committee could not adopt any conclusions that ran counter to the article. However, the Committee was obliged to consider cases of discrimination whereby people could not obtain nationality because they belonged to a certain group.

27. Mr. YUTZIS recalled that, in its General Recommendation XI on non-citizens, the Committee had affirmed that articles of the Convention should not be interpreted to detract in any way from the rights and freedoms recognized and enunciated in other instruments.

28. Mr. THORNBERRY said he shared the views of the Chairman. He suggested that the sentence should be amended to read: "The Committee is also particularly concerned by the difficulties for children of long-term residents of Estonia to obtain citizenship."

29. Mr. KJAERUM (Country Rapporteur), supported by Mr. HERNDL, said that the reference was intended to mean the children of persons who had been residing illegally in Estonia for a long time, a group which had been identified by the State party as having particular difficulties.

30. The CHAIRMAN said that it was important to consider the status of all children, whether residing legally or illegally.

31. Ms. JANUARY-BARDILL suggested that the paragraph should be reformulated to clarify the concerns of the Committee.

32. The CHAIRMAN, supported by Mr. LINDGREN ALVES, said that the last sentence should be amended to read: "The Committee is also particularly concerned by the difficulties to obtain citizenship for children of persons whose status is still pending." It was important to

clarify that the people involved were not strictly speaking illegal immigrants; they had been living on that territory since before the founding of the Republic of Estonia in 1991. The word "minor" should be deleted from the second sentence.

33. Mr. KJAERUM (Country Rapporteur) said he would be in favour of deleting the last sentence entirely if it posed too many problems, considering that the Government of Estonia was aware of the problem and was taking action to address it.

34. Mr. SHAHI said that the current formulation of the last sentence was too strong, given the legal implications of the matter. He suggested that the phrase "The Committee is also particularly concerned by" should be amended to read: "The Committee calls for the speedy resolution of".

35. Mr. THIAM said that the Committee should adopt a flexible approach to accommodate the different situations in each State party, or risk causing greater difficulties for certain States.

36. Mr. PILLAI said that the Committee should take into account the fact that paragraph 201 of the State party's report revealed that a significant number of conditions had to be met by a minor under 15 years of age who was born in Estonia in order to acquire Estonian citizenship.

37. Mr. BOSSUYT said that the sentence should be more specific and state that the target group was children of nationals of the former Soviet Union, as more general formulations posed too many problems.

38. The CHAIRPERSON said that the Committee should avoid making reference to such politically delicate issues.

39. Mr. AMIR said that, prior to the collapse of the Soviet Union, considerable numbers of persons from that country had been living in Estonia. After independence, Estonia had not accorded citizenship to the children of those persons, and they were now stateless in the country they had grown up in. The problem was that raising that issue could cause problems with respect to other successor States to the former Soviet Union; it might therefore be preferable to drop the sentence.

40. Mr. RESHETOV said he was not against deleting the sentence, but explained that, during the Soviet regime, there had been two types of citizenship in Estonia, Soviet and Estonian. All those who had lived in Estonia but had had only Soviet citizenship had lost their citizenship when the country had become independent. He could see that the Estonian authorities were attempting to resolve that problem, but it must be remembered that those were not stateless persons who had recently arrived from elsewhere: they were people who had lived their entire lives in Estonia.

41. Mr. KJAERUM (Country Rapporteur), supported by Mr. SICILIANOS, read out a new draft version of the final sentence: "The Committee calls for the speedy resolution of the status of children born in Estonia of long-term residence whose legal status is still unsettled."

42. Mr. THORNBERRY proposed that the words "has not been finally determined" should replace the words "is still unsettled".

43. Paragraph 11, as amended, was adopted.

Paragraph 12

44. Mr. BOSSUYT observed that the first sentence implied that men could become Estonian citizens but that women could not. It would be inappropriate to seem to be defending women but not men.

45. Mr. THIAM enquired whether the spouses in question were widows of former Soviet Union military personnel. If not, he would like to know why the question did not also include the military personnel themselves.

46. The CHAIRMAN said he would be inclined to remove the paragraph, as it touched upon sensitive security issues. He explained that men who had been members of the Soviet armed forces were certainly excluded from citizenship. It should be borne in mind that the Estonian perception of the former Soviet military was as an occupying force.

47. Mr. RESHETOV said that it was incorrect to refer to the Soviet Union as an occupying power. The Committee must not simply throw around slogans and catchwords. When the Soviet forces had entered Estonia in 1940, they had done so with the assent of all the European powers, and the general in command of the Estonian army had welcomed them. The sentence in question concerned persons who had lived in Estonia for decades and who had been stripped of citizenship when the Soviet Union had collapsed.

48. Mr. KJAERUM (Country Rapporteur) said that the issue was a genuine problem in Estonia. The Committee had the facts; what it did not know was how many persons were affected.

49. Mr. BOSSUYT, supported by Mr. KJAERUM (Country Rapporteur), and Mr. THIAM proposed that the first sentence should be amended to read: "The Committee is also concerned that Soviet Union military personnel residing in Estonia are prevented from receiving Estonian citizenship." In the second sentence, "from former military personnel" should be deleted and "their" inserted before "applications".

50. Paragraph 12, as amended, was adopted.

Paragraph 13

51. Mr. YUTZIS, supported by Mr. KJAERUM (Country Rapporteur), suggested that the word "is," in the first sentence, should be changed to "remains". In addition, he proposed that the second sentence should be brought closer to the wording of the concluding observations to the previous report: "The Committee reiterates that such a narrow definition could limit the scope of the State party's integration programme, or could transform it into an assimilation policy."

52. Responding to a comment by Mr. AMIR, the CHAIRMAN said that the Committee was objecting to Estonia's overly restrictive definition of a national minority, which accorded minority status to some minorities and not to others.

53. Mr. THORNBERRY endorsed the Chairman's comment and observed that that approach corresponded to the approach taken by many other global and regional bodies.

54. Following comments by Ms. JANUARY-BARDILL and the CHAIRMAN, Mr. THORNBERRY proposed that the words "could transform" should be changed to "could have the effect of changing".

55. Paragraph 13, as amended, was adopted.

Paragraph 14

56. Mr. THORNBERRY, supported by Mr. BOSSUYT, said that it was understood that a Government needed to conduct its public business in a common language. Concerns had arisen, however, about Estonia's efforts to regulate language use in the private sector. The thrust of the paragraph should be clarified.

57. Mr. KJAERUM (Country Rapporteur) said that the paragraph was meant to cover both sectors, as concerns had also arisen regarding the language requirements for government employees. For instance, the question might be asked whether prison wardens and police should be required to have the same level of proficiency as government officials. He accordingly proposed that "The existence of language requirements" should be changed to "The scope of language requirements" in the first sentence.

58. Mr. BOSSUYT said that the requirement that government employees should speak a national language did not seem excessive. He took Mr. Kjaerum's point, but it was the private sector that was principally at issue. A problem arose over what requirements could be expected respectively of public officials, employers and employees.

59. After a brief discussion in which Mr. THORNBERRY, Mr. BOSSUYT and Mr. KJAERUM (Country Rapporteur) took part, the CHAIRMAN suggested that the words "in particular in the private sector" should be inserted after the word "employment".

60. Mr. YUTZIS added that the concluding observations were addressed to the State party. It was within the purview of a State to set limits on the use of language in the public sector.

61. Following a question by Ms. JANUARY-BARDILL, the CHAIRMAN specified that the language law covered both the public and the private sector, and that the point at issue concerned the provisions of the law, not its implementation.

62. Paragraph 14, as amended, was adopted.

The meeting rose at 1 p.m.